

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE NORTHWESTERN MUTUAL LIFE INSURANCE:
COMPANY, :

12 Civ. 2514 (PKC)(HBP)

Plaintiff, :

- against - :

STEVEN LITT and TRACY COPPLE-LITT, :

AFFIDAVIT OF
WALTER A. SAURACK

Defendants. :
----- X

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

WALTER A. SAURACK, being duly sworn, deposes and says:

1. I submit this affidavit in support of the following: (i) Steven Litt's motion for an Order, pursuant to Federal Rule of Civil Procedure 56, granting him summary judgment; or, in the alternative, (ii) as his direct testimony for the trial of this matter. This affidavit is based upon my personal knowledge, except where otherwise noted.

2. Attached as Exhibit A are designations of deposition transcript of Northwestern representative Gail C. Junemann (the "Junemann Tr."). Also attached at Exhibit A are some of the exhibits referenced in Ms. Junemann's deposition designations (Exhs. 1, 10 and 12) that are not separately referenced below.

3. Northwestern is no longer a party to this interpleader action.¹ Its counsel advised me that Ms. Junemann (as well as another Northwestern representative deposed in this action, Deborah Luther) is unavailable for testimony at the trial in this action. *See* December 18, 2012 letter from Northwestern's counsel annexed at Exhibit B.

4. A Northwestern Life Insurance Application identified by Ms. Junemann, 17:16-18:3, and marked as Exhibit 5 at her deposition (the "Application"), is annexed at Exhibit C.

5. A replica Northwestern life insurance policy bearing no. 16 579 951 identified by Ms. Junemann (14:10-17:7), and marked as Exhibit 4 at her deposition (the "Policy"), is annexed hereto at Exhibit D.

6. Designations from the transcript of the October 26, 2012 deposition of Defendant Tracy Copple-Litt ("Copple-Litt") are annexed at Exhibit E, together with referenced deposition exhibits. Exhibits referenced in the designations (except for Exhibit 4, which is referenced below) are also annexed at Exhibit E.

7. Designations from the transcript of the November 20, 2012 deposition of Northwestern representative Deborah Luther (the "Luther Tr.") are annexed at Exhibit F. Exhibit 5 from the Luther deposition, which is referenced in the designations, is also annexed at Exhibit F.

8. A "claim packet" identified by Ms. Luther at her deposition (Luther Tr., 13:14-14:25), and marked as Exhibit 1, is annexed at Exhibit G.

¹ A copy of Northwestern's original Complaint and the parties' Answers is annexed at Exhibit O. A copy of the Order transferring this case from the District of New Jersey to the Southern District of New York is also annexed at Exhibit O.

9. A September 26, 2011 email from Ms. Luther to Steven Litt identified by Ms. Luther at her deposition (*see* Luther Tr., 16:14-17:21), and marked as Exhibit 3, is annexed at Exhibit H.

10. A September 23, 2011 email from Ms. Luther to Steven Litt identified by Ms. Luther at her deposition (Luther Tr., at 17:22-25), and marked as Exhibit 4, is annexed at Exhibit I.

11. A September 29, 2011 letter from Copple-Litt to Northwestern with an allegedly completed Designation for Owner of Death Proceeds Only and Change of Client Information Form, which was identified by Ms. Junemann at her deposition (Junemann Tr., 18:13-19:8), and marked at Exhibit 6, is annexed at Exhibit J.

12. An alleged September 29, 2005 facsimile message confirmation identified by Copple-Litt at her deposition (the "Confirmation") (Copple-Litt Tr., 45:2-4), and marked as Exhibit 4, is annexed at Exhibit K.

13. Copple-Litt has not sought to take the deposition of Lehman Brothers or, to my knowledge, taken any steps to authenticate the Confirmation as a Lehman Brothers' business record.

14. Gil Elmaleh's Affidavit, sworn to on October 23, 2012 is annexed at Exhibit L.²


15. Despite seeking and receiving an extension of the discovery deadline in this action in order to take the deposition of Gil Elmaleh, Copple-Litt chose not to do so.

² It is expected that Mr. Elmaleh will testify at the trial in this action.

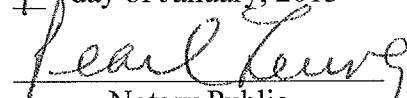
16. Northwestern Life Insurance Annual Policy Statements for the years 2004 to 2010, identified by Ms. Junemann at her deposition (Junemann Tr., 63:1-64:24), and marked as Exhibit 15, are annexed at Exhibit M.

17. An October 4, 2005 letter from Northwestern to Decedent, identified by Ms. Junemann at her deposition (Junemann Tr. 59:1-61:19), and marked as Exhibit 14, is annexed at Exh. N.

WHEREFORE, Steven Litt requests that his application for summary judgment be granted in all respects and that he be awarded the death benefit on the Policy.


Walter A. Saurack

Sworn to before me this
9th day of January, 2013


Notary Public

PEARL LEUNG
Notary Public, State of New York
No. 01LE504674B
Qualified in Kings County
Commission Expires July 17, 2015